

6662719

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FILED DISTRICT COURT
Third Judicial District

MAY 22, 1997

SALT LAKE COUNTY
[Signature]

6662719
06/05/97 4:39 PM **NO FEE**
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
UTAH ST-DEPT OF TRANSPORTATION
4501 S 2700 W
SLC, UT 84119-5998
REC BY: B ROME DEPUTY - WI

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

<p>UTAH DEPARTMENT OF TRANSPORTATION, Plaintiffs, vs. HOLLY J ERNEST; U.S. WEST COMMUNICATIONS, INC.; MOTEL 6 OPERATING, L.P., Defendants.</p>	<p>ORDER OF OCCUPANCY Case No 970902559 CD Judge Anne M. Stirba</p>
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Plaintiff Utah Department of Transportation's Motion for an Order of Occupancy has been submitted to the Court for decision, together with a Memorandum and an Affidavit in support thereof.

Based upon the Motion for Occupancy filed by the Plaintiff in the above-captioned matter, the Memorandum and Affidavit in support thereof, and for good cause appearing,

BK 7684 PG 0673

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff Utah Department of Transportation is granted occupancy of the property UDOT seeks to condemn (parcels numbered 21:C, 21:S, 21:2S, and 21:ST, located at 472 North Catalpa Street, Midvale, Utah) by the above-captioned action as described in Exhibit A to Plaintiff's Complaint on file herein ("subject property") for the public uses and purposes set forth in the Complaint, and shall strictly follow the boundaries of the subject property (See Exhibit A attached hereto). Plaintiff shall have occupancy of the subject property no later than April 20, 1997.

IT IS FURTHER ORDERED that pending further hearing or trial and subject to the conditions herein referenced, the defendant, and any others who claim an interest in or to the subject property, are restrained and enjoined from hindering or interfering with Plaintiff in the occupation of the subject property, or in doing such work thereon as may be required for the purpose for which the property is sought.

IT IS FURTHER ORDERED that this Order shall not be effective until the Plaintiff herein has deposited with the Clerk of the Court, for the use and benefit of the defendants who claim an interest in or to the subject property, the amount of \$679,000.00 which is the amount of the Plaintiff's approved appraisal of the subject property.

The Defendants may file a motion for the withdrawal of the aforesaid funds from the Clerk of the Court, which motion shall be granted without further notice or hearing, and the Clerk of this Court shall immediately remit said funds payable to the defendants.

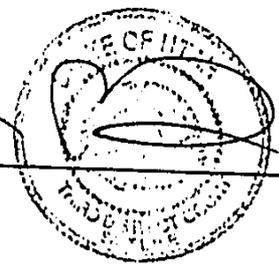
Such withdrawal of funds from the Clerk of the Court shall be without prejudice to the right of the defendants to challenge the amount of just compensation to which they are entitled for the taking of the subject property by condemnation.

DATED this 22nd day of May, 1997.

BY THE COURT:



Judge Anne M. Stirba



STATE OF UTAH
I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL DOCUMENT ON FILE IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH.
DATE: May 22 1997

COUNTY CLERK

BK7584PG0675

CONDEMNATION RESOLUTION
HIGHWAY PROJECT NO. *ISTP-15-7(198)296
Reference No. SP-15-7(116)304
10600 South to 500 North

RESOLVED, by the Utah Department of Transportation, hereinafter referred to as the Department, that it finds and determines and hereby declares that:

The public interest and necessity required the acquisition, construction and completion by the State of Utah acting through the Department, of a public improvement, namely a State Highway. The public interest and necessity require the acquisition and immediate occupancy, for said public improvement, of the real property, or interest in real property, hereinafter described.

Said proposed state highway is planned and located in a manner which will be most compatible with the greatest public good and the least private injury as provided by Title 27, Chapter 12, Section 96, Utah Code Annotated 1953 as amended, and has been heretofore designated as a limited-access facility as provided by Title 27, Chapter 12, Section 114, Utah Code Annotated 1953 as amended.

BE IT FURTHER RESOLVED by said Department that the Attorney General of Utah shall be requested, on behalf of said Department:

To acquire, in the name of the Department, the said hereinafter described real property, or interests in real property, by condemnation in accordance with the provisions of the Statutes and of the Constitution of Utah relating to eminent domain;

To prepare and prosecute such proceeding or proceedings in the proper court having jurisdiction thereof as are necessary for such acquisition;

To obtain, from said court, an order permitting said Department to take immediate possession and use of said real property, or interests in real property, for highway purposes, or purposes incidental thereto.

BE IT FURTHER RESOLVED that the State Finance Director shall be requested, on behalf of said Department:

To prepare State Warrant in the amount of the approved appraisal of each parcel of real property, or interest in real property set forth and described herein; payee to be the Clerk of the District Court of the County wherein the real property is located, for the use and benefit of the landowners and/or lien holder as described herein;

That a tender to the landowners of a sum equal to the fair market value of the property to be acquired for rights of way herein shall be made prior to issuance of Order of Immediate Occupancy.

The real property, or interest in real property, which the Department is by this resolution authorized to acquire for said public use, is situate in the County of Salt Lake, State of Utah, Highway Project No. *ISTP-15-7(198)296, and is described as follows:

BK 7584 PG 0676

HIGHWAY PROJECT NO. *ISTP-15-7(198)296

RECORDED OWNERS: Holly J. Ernest
 ADDRESS: 169 West Burton Avenue
 South Salt Lake, Utah 84115

PARTY IN INTEREST: U. S. West Communications, Inc.
 ADDRESS: 5295 South 300 West
 Murray, Utah 84107

PARTY IN INTEREST: Motel 6 Operating, L.P.
 A Delaware Limited Partnership
 ADDRESS: 201 South Main, Suite 1800
 Salt Lake City, Utah 84111

LIEN HOLDER: None of Record

APPROVED APPRAISAL: \$679,000.00

Parcel No. 15-7:21:C

A parcel of land in fee for an access road incident to the reconstruction of a freeway known as Project No. 15-7, being part of an entire tract of property situate in the SE~~SW~~ of Section 25, T. 2 S., R. 1 W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at the Northwest Corner of said entire tract at a point which is 593.110 meters south and 200.283 meters west from the North Quarter Corner of said Section 25 (Note: said point is also 597.445 meters S. 00°19'02" W. along the section line and 600.782 meters east from the Northwest Corner of said Section 25); and running thence S. 19°07'53" E. 6.625 meters; thence; S. 89°58'53" E. 151.140 meters to the east boundary line of said entire tract; thence South 24.000 meters along said east boundary line; thence N. 89°58'53" W. 52.088 meters; thence S. 44°45'07" W. 9.926 meters; thence S. 00°03'55" W. 25.799 meters to the southerly boundary line of said entire tract; thence N. 89°56'26" W. 14.000 meters along said southerly boundary line to a southwest corner of said entire tract; thence N. 00°03'55" E. 25.515 meters along a westerly boundary line of said entire tract and the extension thereof; thence N. 43°41'53" W. 10.135 meters; thence N. 89°58'53" W. 83.384 meters; thence S. 55°52'07" W. 8.135 meters to the westerly boundary line of said entire tract; thence N. 25°52'14" E. 38.697 meters along said westerly boundary line to the point of beginning. The above described parcel of land contains 4428.7 square meters.

(Note: Rotate above bearings 00°14'53" clockwise to equal highway bearings)

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

BK 7684 PG 0677

HIGHWAY PROJECT NO. *ISTP-15-7(198)296

Parcel No. 15-7:21:8

A tract of land in fee, being part of an entire tract of land, situate in the SE~~1~~NW~~1~~ of Section 25, T. 2 S., R. 1 W., S.L.B.&M. The boundaries of said tract of land are described as follows:

Beginning at the Northwest Corner of said entire tract at a point which is 593.110 meters south and 200.283 meters west from the North Quarter Corner of said Section 25 (Note: said point is also 597.445 meters S. 00°19'02" W. along the section line and 600.782 meters east from the Northwest Corner of said Section 25); and running thence East 153.311 meters along the north boundary line of said entire tract to the northeast corner of said entire tract; thence South 6.308 meters along the east boundary line of said entire tract; thence N. 89°58'53" W. 151.140 meters; thence N. 19°07'53" W. 6.625 meters to the point of beginning. The above described tract of land contains 956.4 square meters.

(Note: Rotate above bearings 00°14'53" clockwise to equal highway bearings)

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

Parcel No. 15-7:21:2S

A tract of land in fee, being part of an entire tract of land, situate in the SE~~1~~NW~~1~~ of Section 25, T. 2 S., R. 1 W., S.L.B.&M. The boundaries of said tract of land are described as follows:

Beginning at the Southwest Corner of said entire tract at a point which is 593.110 meters south and 200.283 meters west and 55.988 meters S. 25°52'14" W. from the North Quarter Corner of said Section 25 (Note: said point of beginning is also 597.445 meters S. 00°19'02" W. along the section line and 600.782 meters east and 55.988 meters S. 25°52'14" W. from the Northwest Corner of said Section 25); and running thence N. 25°52'14" E. 17.291 meters; thence N. 55°52'07" E. 8.135 meters; thence S. 89°58'53" E. 83.384 meters; thence S. 43°41'53" E. 10.135 meters; thence S. 00°03'55" W. 12.888 meters to a southeast corner of said entire tract; thence N. 89°56'05" W. 104.650 meters along the southerly boundary line of said entire tract to the point of beginning. The above described tract of land contains 1976.8 square meters.

(Note: Rotate above bearings 00°14'53" clockwise to equal highway bearings)

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

BK7684PG0678

HIGHWAY PROJECT NO. *ISTP-15-7(198)296

Parcel No. 15-7:21:ST

A tract of land in fee, being all of the remainder of an entire tract of land, situate in the SE¹/₄NW¹/₄ of Section 25, T. 2 S., R. 1 W., S.L.B.&M. The boundaries of said tract of land are described as follows:

Beginning at the Southeast Corner of said entire tract at a point which is 655.702 meters south and 46.393 meters west from the North Quarter Corner of said Section 25 (Note: said point of beginning is also 660.037 meters S. 00°19'02" W. along the section line and 755.019 meters east from the Northwest Corner of said Section 25); and running thence N. 89°56'26" W. 4.131 meters along the southerly boundary line of said entire tract; thence S. 00°03'34" W. 0.610 meters along an easterly boundary line of said entire tract; thence N. 89°56'26" W. 55.552 meters along the southerly boundary line of said entire tract; thence N. 00°03'55" E. 25.799 meters; thence N. 44°45'07" E. 9.926 meters; thence S. 89°58'53" E. 52.088 meters to the east boundary line of said entire tract; thence South 1.791 meters along said east boundary line; thence N. 89°59'20" E. 0.613 meters along a northerly boundary line of said entire tract; thence S. 00°03'55" W. 30.493 meters along the easterly boundary line of said entire tract to the point of beginning. The above described tract of land contains 1933.7 square meters.

(Note: Rotate above bearings 00°14'53" clockwise to equal highway bearings)

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

Prepared by TLB April 3, 1997

BK7684PG0679

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing proposed ORDER OF OCCUPANCY was mailed, postage prepaid, this 15th day of May 1997, to:

Brant H. Wall
Wall & Wall
9 Exchange Place #800
Salt Lake City, Utah 84111

Holly J. Ernest
169 West Burton Avenue
South Salt Lake, Utah 84115

U.S. West communications, Inc.
5295 South 300 West
Murray, Utah 84107

Motel 6 Operating, L.P.
A Delaware Limited Partnership
201 South Main, suite 1800
Salt Lake City, Utah 84111

